

**APPROVED  
EMPIRE TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING MINUTES**

**June 15, 2021**

The Empire Township Planning Commission held a regular meeting on Tuesday, June 15, 2021. The meeting was held at the Glen Lake Community Reformed Church.

**CALL TO ORDER:** Dick Figura, Chair, called the meeting to order at 7:00 p.m.

**ROLL CALL:**

Members Present: Dick Figura, Larry Krawczak, Micah Deegan, Erik Foged, Duane Shugart.

Members Absent: None

Staff Present: Tim Cypher, Dana Boomer

**APPROVAL OF AGENDA:** The board briefly discussed the agenda. **Motion by Krawczak, second by Deegan to approve the agenda as presented. All in favor, motion carried.**

**APPROVAL OF MINUTES:** **Motion by Foged, second by Shugart to approve the May 18, 2021 Meeting Minutes as presented. All in favor, motion carried.**

**COMMUNICATIONS:** Cypher has received several communications regarding the public hearing tonight – he will read those during the public hearing.

**PUBLIC COMMENT:** A general comment asked whether there will be the opportunity for question and answer during the public hearing – Figura replied that he will discuss this during the instructions for public comment in the public hearing.

**ZONING ADMINISTRATOR'S REPORT:** Acknowledged the receipt of Cypher's monthly reports for May 2021. Cypher briefly summarized his reports. **Motion by Shugart, second by Foged to acknowledge receipt of the May 2021 reports. All in favor, motion carried.**

**PUBLIC HEARING – WATERSHED OVERLAY DISTRICT** – Figura opened the public hearing at 7:06 pm and explained the process. He thanked the Glen Lake Community Reformed Church for allowing the Planning Commission to conduct the meeting in their facility, using their technology to conduct a hybrid in-person/Zoom meeting. This public hearing is regarding a proposed watershed overlay district, which would impose additional regulations on all properties within the Glen Lake/Crystal River Watershed, regardless of underlying zoning. Figura stated that he and Zoning Administrator Tim Cypher have both provided background services to the GLA, as they serve, respectively, as the attorney and Zoning Administrator for three of the four townships which contain portions of the watershed. They have not taken a position on the proposed district, but have been previously involved in clarification and legalities with regard to the proposal. While there is generally no opportunity for question and answer, part of the reason for this public hearing is to be informative, and so question and answer will be allowed at the discretion of the Chair.

- a. Presentation by Glen Lake Association – Rob Karner, a watershed biologist from the Glen Lake Association, presented regarding the Watershed Overlay District, which the GLA has developed and is recommending adopting. Karner summarized the proposed amendment, its history and development, and the reason for the proposal. The proposed

overlay district regulations have been made available on the GLA website and the Empire Township website. This proposal covers lands in Empire, Kasson, Glen Arbor, and Cleveland Townships; the public hearing tonight only covers Empire Township. The proposal would only affect new structures and uses; existing structures and uses would be grandfathered. Karner covered the proposed changes to uses, greenbelts, sea walls, stormwater runoff, and steep slopes. Karner and the GLA recommend the adoption of this overlay district to protect the water quality of the Glen Lakes for years to come.

- b. Comments from Staff – Cypher reviewed the summary document that had been previously provided regarding the differences between the current zoning and the proposed overlay district. He covered the added definitions; items such as setbacks, height restrictions and lot size requirements which would remain the same; and items that are proposed to be changed such as the vegetative buffers, seawalls, steep slopes, clustered development, and tree clearing.

Figura then opened the floor for questions of clarification.

Dave Burton – Lot 17, Glen Forest, Empire, resident in Glen Arbor Township – How many lots on Glen Lake are undeveloped that are not in the park? Cypher replied that he believes almost 92% of available lots have been developed.

There were no further clarification questions. Cypher then read several letters from the public into the record – these will be maintained as part of the record. There were seven letters in support of the overlay district, and three letters opposed to the overlay district. These letters are attached to the end of these minutes.

- c. Public Comment –  
COMMENTS IN FAVOR OF PROPOSED AMENDMENT

Denny Becker – Day Forest Road, Glen Arbor Resident – He has been involved with the GLA for a number of years. Most people seem to be in favor of the overlay district, but he has heard a number of people ask if this can be done through education, rather than legislation. In a previous project, it was suggested that the issue of poor septic systems be addressed through education; it was found that while education helps, the only way to get 100% compliance is through legislation.

(via Zoom) Ralph Bednarz – Rennie Lake, East Bay Township – He thanked the townships for undertaking the review of this proposal. Bednarz is a retired limnologist who spent his career working with clean water initiatives, and has worked on projects on the Glen Lakes. This proposed zoning was well developed, and is thoughtful and practical. Excessive development and the removal of native vegetation are major causes of the degradation of lakes and watersheds. Only 10% of the nation's lakes remain blue and healthy, with the Glen Lakes as one of these, but action must be taken to ensure that it remains so.

(via Zoom) Don Brady – Westwoods Drive, Empire Township – He is an employee of EGLE. He supports the overlay district, as he feels it is very important to have a concerted effort to monitor and protect natural resources, especially those that cover multiple jurisdictions. In his job, he sees lakes that have not been protected, and he believes that the regulations in the proposed ordinance are necessary to protect the watershed. He supports this as a State of Michigan employee whose job is to protect water quality and a resident who loves to recreate on Glen Lake and the surrounding area.

## COMMENTS AGAINST PROPOSED AMENDMENT

Roger Noonan – landowner in Empire Township – His family owns a 200 acre parcel in Empire Township in the proposed district where they have a large cherry orchard and small feedlot. There is nothing in the proposed amendment that supports agriculture; it does not allow small processing plants for agricultural purposes. He opposes the district, as it does not support agriculture.

Scott Higgs – Burdickville Road – He is opposed to the overlay district. This is a solution in search of a problem. This is trying to provide uniform language over a non-uniform district. Kasson Township is drastically different than the lakeshore areas along Glen Lake. In addition, some issues are already regulated by the state, or are already regulated in the Zoning Ordinance. He feels that the issues should be regulated in individual township zoning ordinances, rather than a uniform overlay district. He disagrees with the steep slope provisions specifically, as the proposal makes no argument for how this would improve water quality. The proposed restrictions are very restrictive with regard to what is considered a steep slope.

Dave Burton – Empire Township and Glen Arbor Township – His property has viewshed deed rights, which allow him to trim and remove trees on other people's properties which impede his view. The proposed ordinance would impede this right. Mr. Karner spoke to the vegetative buffer as the most important portion; however, 92% of the lots on the lake are grandfathered. This proposal is reaching for solutions which are better approaches through education. Property rights are being stripped through this ordinance, and then the township will waste his property tax money defending lawsuits from property owners.

- d. Close Public Hearing – With no further public comment, Figura closed the public hearing at 8:15 pm.

## OLD BUSINESS:

- A. **Watershed Overlay District** – The PC discussed the proposed overlay district. Micah Deegan stated that generally speaking he can support the overlay district; however, he feels it still needs a few tweaks, especially with regard to the vegetative buffers, views, and steep slopes. He feels that the proposed regulations are overly restrictive with regard to vegetative buffers and steep slopes. It is up to the PC to protect the region as well as they can, but he feels there are changes that should be made to the proposal.

Duane Shugart thanked the public who are attending via Zoom and in person. He has a few concerns that he feels need to be addressed, including the agricultural side, vegetative buffers and viewscapes. Agriculture is listed in the Master Plan as an important area that needs to be preserved. He is in favor of the overlay district, but has concerns with specific areas and is concerned with over regulation.

Erik Foged feels that there are several things that need to be tweaked in the proposal. There is a good foundation, and the PC should move forward with polishing the proposal.

Dick Figura stated that the steep slope issue is an interesting one. At first he thought that 12% was not steep enough – that the restriction should kick in at a steeper slope. However, he also realized that in very sandy, easily disturbed soils, 12% may be steep enough. He is also interested in the agricultural question, as he was under the impression that the ordinance as written exempted agricultural uses. Regarding the lakefront lots, as those change uses and structures are built and rebuilt, additional lots will be brought under the purview of the proposed overlay district.

Cypher recommended that a formal decision be sought from the Michigan Department of Agriculture regarding agricultural uses and whether they could be covered under an overlay district of this sort. That research could clarify the issues related to agriculture going forward. **Foged moved to postpone a decision on the overlay district project until July, regarding the areas of concern identified, including steep slope, agriculture, and the view/vegetative buffer issue. Shugart seconded. Roll call: Foged (yes), Krawczak (yes), Deegan (yes), Shugart (yes), Figura (yes), motion carried.**

The PC will continue discussion on the overlay district at the July meeting. This will be a regular meeting, not a public hearing, but all public members are welcome to attend and there will be the opportunity for public comment. Additional comments can also be directed to Tim Cypher in writing.

- B. **Master Plan Review** – Due to time, this item was tabled until the July meeting. At that time, additional updates will be provided and Paula Figura will speak regarding broadband. **Foged moved, Krawczak seconded to table the item until July. All in favor, motion carried.**

#### **NEW BUSINESS:**

- A. **Pleasure of the Board** – None

**PUBLIC COMMENT:** None

**BOARD COMMENT:** Larry Krawczak asked for proposed language on amendment changes to be distributed for review prior to the next meeting. The PC authorized Figura to work with Cypher and Karner to develop options for discussion.

Micah Deegan thanked the church and the public for their support and participation in the meeting.

**ADJOURNMENT:** **Motion** by Krawczak to adjourn at 8:33 pm, Deegan seconded. With no objection, Figura adjourned the meeting.

Respectfully Submitted,

Dana Boomer  
Recording Secretary

To: Timothy A. Cypher, Empire township Zoning Administrator  
From: Viktor G. and Susan R. Theiss 8864 S. Dunn's Farm Road, Maple City, Michigan  
Subject: Empire Township Glen Lake-Crystal River Watershed Overlay District

Ever since we became aware of this effort, we have been thinking and thinking about it, and why it should be adopted ASAP. Very simply put, IT IS THE RIGHT THING TO DO...for the long term health of the watershed, our local economy, and our way of life.

Almost 20 years ago, our then Congressman Dave Camp came to Glen Arbor to celebrate the successful passage of legislation which he sponsored to expand the boundaries of the Sleeping Bear Dunes National Lakeshore by adding approximately 120 acres of rare dune and swale complex along the Crystal River that had been proposed for development of a championship golf course. At the close of the event his chief of staff (Joanna Foust) commented that after 7 years of service in the Congress, the boundary expansion project was her most satisfying. She stated "it was the right thing to do", instead of being based on "political considerations like most of their projects". The Glen Lake-Crystal River Watershed Overlay District is one of those.

Had the golf course been built as proposed, the water quality in the Crystal would have been severely degraded by pesticides and fertilizer runoff, water levels in the watershed would have been significantly reduced from irrigation, river fishing would probably be mostly a thing of the past, and the enjoyment the public incurs paddling the river would have changed forever. Twenty years from now the overlay district has the potential to have a similar positive impact on our watershed. Why would that be true? Because the watershed is extremely fragile and under stress from so many factors, particularly relating to land use, and the overlay district will insure mitigation from many of these factors.

With more large structures and impermeable surfaces being built throughout the watershed, and more people occupying them, with more plantings requiring more irrigation and fertilizing, the potential for runoff pollution increases significantly. The overlay district addresses these issues with common sense measures that reduce toxic runoff and contamination of the water. Moreover, low impact design standards and retention of tree and vegetative cover will also contribute. The economic impact of maintaining water quality and thus property values and the tax base is obvious. It also impacts the quality of life for those of us who make our permanent residence here and cherish a way of life that is the envy of the world.

Thank you, thank you, thank you for joining with the Glen Lake Association and your neighbors in keeping this watershed the most beautiful place in America.

Dear Members of the Empire Township Planning Commission,

Thank you for the opportunity to comment on the proposed Glen Lake-Crystal River Watershed Overlay District. It relates to both my professional and academic experiences. I have an MS degree in Natural Resources Management with an emphasis on water resources, worked for Illinois Environmental Protection Agency (EPA) for implementation of the non-point source sections of the Clean Water Act, and founded and managed Mama Bear Restorations, Inc which designed and implemented shoreline restoration at Glen Lake, projects which continue to this day.

For the past two decades I have worked professionally on the east shore of Glen Lake. The focus of the work my staff and I did was shoreline restoration using native plants, including developing successful methods for recovery of the endangered Michigan Monkey Flower as well as the first program for control of the Coltsfoot invasion which threatened all vegetation around the lake. I have trudged up and down many, many miles of Glen Lake's shoreline. During that process I have observed numerous negative watershed issues ranging from septic system malfunction, to shoreline erosion matters, to disruption to natural drainage, to improper use of fertilizers and herbicides, to lawns going to water's edge, to properties without enough vegetative cover, and more. All of these sorts of negative issues will, in time, contribute to lowering of the water quality in Glen Lake.

Fortunately, I have also seen numerous positive measures to alleviate or eliminate these kinds of negative issues and in many instances to stop problems before they start. In short I have personally observed and experienced Glen Lake watershed matters, ranging from A to Z. I am very pleased to see that the proposed Glen Lake-Crystal River Watershed Overlay District is designed to help stop those kinds of problems before they start. It seems to me -- both from my perspective working directly in the watershed and from methodologies I studied in academe -- that the Overlay District is just what our watershed needs.

Deterioration of Glen Lake and its watershed would inevitably lead to unpleasant economic and personal consequences. The Overlay District is designed to keep that deterioration from happening. The Overlay District would be a win-win because it would enable responsible development to proceed while at the same time seeing to it that development has a minimal negative effect on the lake.

I urge you to "green light" the proposed Overlay District to the Empire Township Board. Thank you so much for your consideration!

Jody Marquis  
8892 S. Dunns Farm Rd.  
Maple City, MI

Dear Members of the Planning Commission and Zoning Board of Empire Township,

We are property owners in Empire Township. We are also members of the Glen Lake Association. We are writing to let you know that we have just read over the Overlay District Proposal of the Glen Lake Association, and we agree with the provisions to promote responsible development and protect our Glen Lake/Crystal River watershed area. We all are fortunate to live in such a uniquely beautiful area, and it is important to preserve the quality of our water and the surrounding area.

Thank you for your interest and consideration.

Always,  
Mary and Paul Finnegan

Tim,

Regarding the proposed Overlay district: I'm opposed to the overlay district. While I believe that most of the provisions are beneficial, I believe that they should be encourage and voluntary, not legislated. I hope that the township will not approve this plan unless it is approved by a majority vote of all those that it affects.

Dale DeJager  
5284 W MacFarlane Rd.  
Glen Arbor, MI 49636



To All Concerned,

We wish to state that we support creation of a Glen Lake/Crystal River Watershed Overlay District in order to protect our most vital resource--our water, above and below ground. We further support any other measures that will help achieve this. We thank you for considering this and for your efforts to protect our environment.

Sincerely,

Tom & Alice Van Zoeren

9585 Bow Rd

Maple City, MI 49664

Hi Tim,

I wanted to write a quick note in tremendous support of the Glen Lake Watershed Overlay District for Empire Township.

I work as a professional ecologist and botanist, and routinely conduct wetland condition assessments and a variety of ecosystem integrity assessments across Michigan for state and federal agencies. Throughout my professional career I continually observe the, frankly tragic, results of bad land use decisions coupled with poor oversight impacting wetlands, lakes, and streams. Also, how quickly land use impacts wetlands and waterbodies and how difficult it can be to ameliorate problems after-the-fact. This proposed ordinance appears to address many of the factors I would consider critical in mitigating impacts of development, such as conserving shoreline vegetation and trees, discouraging hardened shorelines, targeting phosphorus inputs, and general oversight of development.

With the increasing rate of development pressure, and people building in more marginal areas such as wetland margins and steep slopes, it is a critical time to address this issue. These are the decisions that will help keep Leelanau's wetlands, lakes, and streams from becoming eutrophic and degraded, as much of the Southern Lower Peninsula has become.

Thanks for your time!

Liana May  
0000 Echo Valley Rd, Empire Twsp &  
12840 Regal St, Elmwood Twsp

I am writing as a Glen Lake property owner who is not in favor of the watershed overlay district. It would be completely troublesome to have plants on my beach be legislated so that I, as property owner, could not increase or decrease the size of my raspberry patch whatever else might happen over the years. Since purchasing the property, we have been advised about what is safe and best for the lake. I believe that those of us on the lake are motivated to keep Glen Lake at its best. However, change will always happen even without legislation. For example, as the ash trees have died, we have had to cut them down and many have fallen on their own taking out power lines and blocking driveways. We have been told because of the marshy area where this occurred, that we cannot have the stumps ground so we have just left this ghost forest of stumps alone. Forests change over the years, the shoreline changes a bit with water levels and storms; change is inevitable. Home owners can learn best and safe practices but the watershed overlay district is too much. Focus your efforts on gravel and surface mining.

Sincerely,

Margaret DeJager

5284 W MacFarlane Rd

Glen Arbor, MI 49636

Mr. Cypher,

We live on the south shore of Little Glen Lake in Empire Township. We are not able to attend tomorrow's Planning Commission public hearing on the proposed Glen Lake-Crystal River Overlay District, but wanted to go on record as being in support of the overlay. We believe it is a sensible and reasonable approach to help protect the unique, high quality water we are blessed with, and that it would do so without significant burdens on Empire Township residents. We hope the Commission will approve the overlay.

Sincerely,

Rob and Judy Meyer

I realize I am past the deadline but something came up and I am not able to attend in person this evening. I hope my comments are still taken into consideration.

I have fully supported most projects to help maintain our water and have donated thousands of dollars to the Glen Lake Association over the years. That said, I am concerned that much like the failed attempt to mitigate swimmers itch and the recent donation to the Leelanau Sheriff's department for a new boat – these are projects that GLA has taken on with little to no impact on actual water quality. With so much of the township already under the protection of the National Park, one has to ask if this places an undue burden on residents (current and future) that will ultimately have no impact. If the township is concerned about water quality then I believe you should continue to focus on point of sale septic inspections and other areas that are proven to have a positive impact on water quality.

Eric Miles

Dear Members of the Empire Township Planning Commission

I am writing in support of the changes to the Empire Township Zoning Ordinance proposed as a Watershed Overlay District. My wife and I reside at 7870 W. Welch Rd., Empire. We have been property owners for 27 years. Our home is located on the south shore of Little Glen Lake.

I have read the Synopsis of Watershed Overlay District Proposal document mailed to Empire Township residents. I believe the proposed changes are reasonable and necessary in order to protect the quality of the water resources in the Glen Lake/Crystal River watershed now and in the years ahead.

Maintaining the quality of our water resources is vitally important to all residents of the Township. Local businesses depend on the natural beauty and cleanliness of the watershed to attract visitors and support their revenue streams. In addition, property values and property tax revenues are highly impacted by and dependent upon maintaining water quality. Of course, it is not just about money. It is impossible to put a price on the color, clarity and beauty of these waters. I applaud the Empire Township Planning Commission for taking action to propose these zoning revisions and it is my sincere hope that the Planning Commission will act favorably to approve these revisions.

Sincerely

David M. Cassard  
7870 W. Welch Rd.  
Empire Mi. 49630